

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

IN THE MATTER OF THE WINDING DOWN OF:

THE NEW HAMPSHIRE MEDICAL MALPRACTICE  
JOINT UNDERWRITING ASSOCIATION

No. 217-2015-CV-00347

**RECEIVER'S MOTION FOR APPROVAL  
OF REVISED INVESTMENT GUIDELINES**

Roger A. Seigny, Insurance Commissioner for the State of New Hampshire, as Receiver ("Receiver") of the New Hampshire Medical Malpractice Joint Underwriting Association ("NHMMJUA"), moves for approval of revised investment guidelines for the NHMMJUA. A copy of the revised investment policy statement (the "Revised Investment Guidelines") is attached as Exhibit A. As reasons therefor, the Receiver respectfully states:

1. Background. The NHMMJUA's fixed income investment portfolio has been managed by Deutsche Investment Management Americas, Inc. ("Deutsche"), pursuant to investment guidelines. The investment guidelines were most recently revised in May 2012. They contemplated that the NHMMJUA would be an ongoing entity with a long time horizon. Affidavit of Peter A. Bengelsdorf, Special Deputy Commissioner ("Bengelsdorf Aff.") ¶ 3.

2. On July 20, 2015, a statute concerning the winding down of the NHMMJUA became effective. 2015 Laws 263 (the "Act"). On July 22, 2015, the Order of Rehabilitation for the NHMMJUA pursuant to the Act was entered. Bengelsdorf Aff. ¶ 4.

3. Since that time, the Receiver has consulted with Deutsche as to the best strategy to maximize income and preserve capital in the circumstances. The NHMMJUA has a limited

future in light of the Act and the present proceeding to wind down the NHMMJUA. Further, the interest rate environment is highly uncertain but rates are expected to rise in the not too-distant future. Bengelsdorf Aff. ¶ 5.

4. In these circumstances, Deutsche has recommended that the Receiver shorten the duration of the portfolio by, among other things, selling certain long term bonds. The Receiver has directed Deutsche to invest current cash (excess investment income left after expenses and claim needs) and the proceeds of maturing investments in bonds with durations of six to nine months. Bengelsdorf Aff. ¶ 6.

5. The May 2012 investment guidelines did not permit investments with an issue quality rating below A3 as rated by the nationally recognized statistical rating organization Moody's. However, on July 22, 2015, approximately 9% of the NHMMJUA portfolio consisted of investments with a rating of Baa1 or lower (including three bonds with ratings below Baa3<sup>1</sup>) because of downgrades to investments that had the required ratings when first purchased. The NHMMJUA had authorized Deutsche to continue holding these investments. Deutsche has recommended against selling these investments given the effect of the downgrades on price and its favorable views of the prospects that the investments will pay in full. The Receiver has authorized Deutsche to continue holding these investments. Bengelsdorf Aff. ¶ 7.

6. The Revised Investment Guidelines. The proposed Revised Investment Guidelines attached as Exhibit A were prepared by Deutsche in consultation with the Receiver. Under the proposed Revised Investment Guidelines, the investment objectives of the NHMMJUA and Receiver continue to be liquidity to meet cash disbursements; preservation of

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<sup>1</sup> These three bonds together had a total book value of \$385,000 as of July 27, 2015.

income and capital; and earning a competitive rate of return against appropriate benchmarks.

See Revised Investment Guidelines, Statement of Objectives at 2 (page 5). Bengelsdorf Aff. ¶ 8.

7. The Revised Investment Guidelines seek to achieve these objectives by applying overall investment duration and quality requirements (see Table A of the Guidelines) (page 5); concentration limitations on the percentage of the total portfolio that can be comprised of certain broad types of investments (see Table B) (page 6); and asset class diversification requirements limiting (i) the percentage of the portfolio that can be comprised of investments of any one issuer in any single asset class and (ii) the percentage of the portfolio that can be comprised of investments in any one asset class (see Table C) (page 6). The Revised Investment Guidelines place percentage limitations on issuer and asset classes based on investment quality as evaluated based on ratings assigned by the nationally recognized statistical rating organizations Moody's and Standard & Poor's. Bengelsdorf Aff. ¶ 9.

8. The proposed Revised Investment Guidelines are generally consistent with the investment guidelines of May 2012. The principal difference is that the Revised Investment Guidelines allow up to 10% of the portfolio to be invested in investments rated Baa1-Ba3, including up to 4% which may be rated Ba1-Ba3. Where Moody's and Standard & Poor's differ in rating a particular security, compliance will be evaluated based on the lower rating (not, as previously, the higher rating). These changes reflect the actual portfolio existing at the beginning of the receivership and are expected to permit the portfolio to earn a slightly better return than otherwise while maintaining the NHMMJUA's generally conservative approach to preservation of capital. The proposed Revised Investment Guidelines continue to prohibit investments not specifically permitted. See Section C of the Guidelines (page 1). Bengelsdorf Aff. ¶ 10.

9. The proposed Revised Investment Guidelines are recommended by Deutsche and are consistent with a prudent and conservative investment policy. See Bengelsdorf Aff. ¶ 11.

10. For the reasons described above, the Receiver submits that the Revised Investment Guidelines are fair and reasonable and in the best interests of the winding-down of the NHMMJUA. See Bengelsdorf Aff. ¶ 12. The Revised Investment Guidelines are consistent with the Receiver's authority under RSA 402-C:17, II, and paragraph 3 of the Order of Rehabilitation to administer assets under the orders of the Court.

WHEREFORE, the Receiver requests that the Court:

- a. Grant this motion;
- b. Enter an order in the form submitted herewith approving the Revised Investment Guidelines; and
- c. Grant such other relief as equity and justice may require.


Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE COMMISSIONER  
OF THE STATE OF NEW HAMPSHIRE, AS RECEIVER  
OF THE NEW HAMPSHIRE MEDICAL  
MALPRACTICE JOINT UNDERWRITING  
ASSOCIATION

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September 16, 2015

**Certificate of Service**

I hereby certify that a copy of the foregoing Receiver's Motion for Approval of Revised Investment Guidelines, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent this 16th day of September, 2015, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith

NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

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No. 217-2015-CV-00347

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**NEW HAMPSHIRE MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOC.**  
**INVESTMENT POLICY STATEMENT**AUGUST  
2015**A. PURPOSE AND BACKGROUND**

This Statement sets forth the policies for the management of the investment portfolio of the New Hampshire Medical Malpractice Joint Underwriting Association (NHMMJUA), including Claim Reserve and Stabilization Reserve Segments .

**Background**

The NH JUA was established in 1975 pursuant to Regulation No. 1700 (as amended) by the Insurance Department of the State of New Hampshire. On July 20, 2015 the Governor signed into law HB508 and on July 22, 2015 the Merrimack Superior Court issued an order placing the NHMMJUA in receivership pursuant to RSA 402-C/RSA 404-C:15-17. The Insurance Commissioner was appointed as Receiver of the NHMMJUA by the Order of Rehabilitation. Deutsche Investment Management Americas, Inc. (DeWAM) will conduct all of their investment activities on behalf of NHMMJUA in accordance with these guidelines.

**Legal Requirements**

The laws and regulations of the State of New Hampshire govern allowable investments for NH JUA; this policy statement is designed to comply with these laws and regulations. NH JUA will conduct all of its investment activities in accordance with all relevant state and federal statutes and regulations; Deutsche Asset Management (DeAWM) will conduct all of their investment activities on behalf of NH JUA in accordance with these guidelines.

**B. PORTFOLIO SEGMENTATION**

The investments of NH JUA are segmented into the following two portfolios:

- 1) Claim Reserve Segment
- 2) Stabilization Reserve Segment

Guidance for both funded segments (Claim Reserve Segment & Stabilization Reserve Segment) combined is provided in this Investment Policy Statement.

**C. CONTROL PROCEDURES****PROHIBITED INVESTMENTS**

Investments not specifically permitted in this policy statement are prohibited without prior written approval of the Receiver. Examples of prohibited investments include, but are not limited to: non-dollar fixed income securities, direct investment in mortgages or real estate, commodities, short sales and margin purchases, speculative use of futures and options, and interest-only and inverse floating rate tranches of mortgage derivative securities.

**COMMUNICATIONS****1. Portfolio Reporting**

DeAWM will provide the Receiver with a monthly reporting package containing for example: performance statistics, transaction detail including realized gains and losses, and portfolio appraisals detailing cost, market value, and accrued interest of securities held.

**2. Meetings**

DeAWM will meet with the Receiver periodically to review the investment portfolio.

**3. Performance Measurement**

DeAWM will measure and compare portfolio performance to agreed upon benchmarks.

**4. Periodic Guideline Review**

The Receiver will review these guidelines with DeAWM at least annually. This review recognizes that the needs and objectives of NH JUA may change over time.



**D. DEFINITIONS**

**I. GENERAL**

**Assets Defined**

All quantitative limitations in this policy statement are stated as a percentage of the DeAWM amortized cost of assets managed by DeAWM unless otherwise indicated. Per issuer compliance is measured at the time of purchase.

Portfolios are accounted for each segment (Claim Reserve Segment & Stabilization Reserve Segment) but the policy statement is applied on a combined basis. Limits are measured against the combined segments' assets.

Limits for fixed income portfolios are measured against fixed income assets. DeAWM will not be deemed to have breached these guidelines as a result of contributions or withdrawals made by NHMMJUA.

**Fixed Income Quality Designations**

For clarity, Moody's long-term quality designations for bonds and redeemable preferred stocks are referenced in the investment policy statement. The table below shows the equivalent Standard & Poor's designation and the designation that is typically assigned by the NAIC's Securities Valuation Office (SVO) based on one of the nationally recognized statistical rating organizations (NRSRO).

MOODY'S	STANDARD & POOR'S	TYPICAL NAIC SVO DESIGNATION
Aaa; Aa 1,2,3; A 1,2,3	AAA; AA+; AA; AA-; A+; A; A-	1, RP1
Baa 1,2,3	BBB+; BBB; BBB-	2, RP2
Ba 1,2,3	BB+; BB; BB-	3, RP3
B 1,2,3	B+; B; B-	4, RP4
Caa, Ca, C	CCC+; CCC; CCC-; CC; C	5, RP5
	CI; D	6, RP6

Source: NAIC SVO Manual

The use of "quality category" along with a letter rating encompasses all suffixes; for example "A Rated Quality Category" includes all of the following: A1, A2, A3 as well as A+, A, and A-.

DeAWM will evaluate quality compliance based on the ratings assigned by one or both of the two NRSROs shown above. In the event of a split rating, DeAWM will measure quality compliance based on the lower of the Moody's or Standard & Poor's ratings.

**Fixed Income Non-Rated Securities**

Securities that are not rated by a listed NRSRO may qualify for purchase if they have an equivalent Fitch or NAIC rating. New issue securities that are not yet rated may be purchased if the expected rating would qualify under the guidelines. Securities that are not rated and are not awaiting a rating may be purchased only with prior approval of company management.

**Pools**

For mortgage pass-through securities, the limits defined within this policy statement apply on a per pool basis. The pool limits for CMOs, non-agency mortgage related securities and all asset-backed securities will be monitored and applied at the deal level (combining all tranches).

**Private Placement Securities - SEC Rule 144A**

Private placement securities issued under SEC Rule 144A are included in all asset classes allowed in the investment policy statement.

**2. FIXED INCOME**

**SHORT-TERM INVESTMENTS**

Short-term investments consist of cash and investment grade securities with an original maturity at purchase of no more than one year.

**a. U.S. Government Securities**

U.S. Government securities backed by the full faith and credit of the United States or its agencies.

**b. Money Market Funds**

Includes bank sweep vehicles and other funds qualifying for Exempt or Class One treatment under NAIC rules.

**c. Other Short-Term**

Includes, but not limited to: repurchase agreements, commercial paper, tax-exempt demand notes, auction rate preferred stock, bankers' acceptances, and certificates of deposit.

**U.S. GOVERNMENT & AGENCY OBLIGATIONS**

**a. Full Faith and Credit**

Obligations of the U.S. Treasury and U.S. Government agencies backed by the full faith and credit of the United States.

**b. Other U.S. Agencies**

Debentures of the various U.S. government sponsored agencies that are viewed as having moral obligation credit support from the government. For example, debentures of such agencies as: the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Student Loan Marketing Association (SLMA).

**RESIDENTIAL MORTGAGE RELATED SECURITIES**

Special purpose trusts and corporate entities secured by residential or commercial real estate.

**a. Full Faith and Credit**

All pass-through securities guaranteed by the Government National Mortgage Association (GNMA) and certain other agencies that are backed by the full faith and credit of the United States.

**b. U.S. Agency Backed**

Mortgage related securities issued either as pass-throughs or as collateralized mortgage obligations (CMOs) of a U.S. government agency that are not backed by the full faith and credit of the United States.

**c. Non-U.S. Agency Backed**

Non-U.S. agency mortgage related securities backed by residential mortgages.

**COMMERCIAL MORTGAGE RELATED SECURITIES**

Securities payable primarily from distributions on a pool of commercial real estate related assets such as, but not limited to, commercial real estate mortgages and commercial real estate leases. Also includes certain U.S. Agency issues such as FNMA, GNMA and FHLMC that are collateralized by mortgages on commercial or multifamily property.

**ASSET-BACKED SECURITIES**

Securities payable primarily from distributions on a pool of financial assets such as, but not limited to: credit card receivables, automobile and other consumer loans, and home equity loans. This category also includes structured corporate bonds, sovereign debt, and bank loans comprising collateralized bond, debt, or loan obligations (CBOs, CDOs, CLOs).

**U.S. CORPORATE BONDS**

**a. Fixed Income Bonds and Notes**

Public fixed income bonds and notes issued by U.S. corporations and supranational organizations in U.S. dollars.

**b. Taxable Municipal Bonds and Notes**

Issued by states, territories, political subdivisions, and agencies of the individual states of the United States (including the District of Columbia).

**Per Industry Diversification**

DeAWM will monitor industry diversification through its portfolio reporting system.

**U.S. MUNICIPAL BONDS**

**a. State General Obligations**

Bonds and notes issued by the individual states of the United States and secured by their taxing authority.

**b. Other Municipal Bonds**

Includes bonds and notes of states, U.S. territories, political subdivisions, and agencies of the individual states of the United States (including the District of Columbia).

**FOREIGN CORPORATE & GOVERNMENTAL BONDS (U.S. DOLLAR PAY)**

**a. Canadian**

Public fixed income bonds and notes issued by Canadian corporations in U.S. dollars.

**b. Other Foreign**

Public fixed income bonds and notes issued by non-U.S. and non-Canadian corporations in U.S. dollars.

**NHMMJUA**

**Deutsche Investment Management Americas Inc**

Roger Sevigny, Insurance Commissioner, as  
Receiver of the New Hampshire Medical  
Malpractice Joint Underwriting Association, by Peter  
Bengelsdorf, Special Deputy Commissioner

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**Date:** \_\_\_\_\_

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**Date:** \_\_\_\_\_

**1. PURPOSE AND BACKGROUND**

This document serves as an addendum to the NHMMJUA Investment Policy Statement dated August 2015 (the Statement). Its purpose is to add specific guidance on the portfolio established by the Statement.

**2. STATEMENT OF OBJECTIVES**

These investment objectives are prioritized by NH JUA and will be monitored by DeAWM in the management of NHMMJUA's investment portfolio.

- Liquidity to meet cash disbursements.
- Preservation of income and capital
- Earn a competitive rate of return versus appropriate benchmarks.

Compliance with all relevant insurance regulations, including New Hampshire state laws and NAIC guidelines, as interpreted and communicated by the NHMMJUA.

**3. PERFORMANCE BENCHMARK(S)**

DeAWM will measure the performance of the portfolio and report the results to the NHMMJUA. Until or unless otherwise modified, the following benchmarks will be utilized in evaluating investment performance:

**Fixed Income: Barclays Capital Custom Bend**  
 25% US Intermediate Government  
 20% US MBS  
 5% US CMBS AAA ERISA Eligible  
 5% US ABS  
 45% US Intermediate Credit, A & better

**4. REALIZED CAPITAL GAIN AND LOSS ANNUAL AUTHORITY**

- Net capital gains – no restriction
- Net capital losses - \$250,000 for the Claim Reserve Segment & Stabilization Reserve Segment combined

Capital losses in excess of the stated provision requires prior approval of management.

**5. RISK TOLERANCE, DIVERSIFICATION AND LIMITS**

<b>Table A – Fixed Income - Overall Risk Tolerance</b>	<b>Measure / Maximum</b>
<b>Effective Duration Target</b>	<b>Benchmark</b>
<b>Effective Duration Range</b>	<b>+/- 20%</b>
<b>Minimum Average Portfolio Credit Quality</b>	<b>Aa3</b>
<b>Minimum Issue Quality</b>	<b>Ba3</b>
<b>A3 Rated Quality or Higher Aggregate</b>	<b>No Limit</b>
<b>Baa1 – Ba3 Rated Quality in Aggregate</b>	<b>10%</b>
<b>Ba1 – Ba3 Rated Quality in Aggregate</b>	<b>4%</b>

<b>Table B – Fixed Income – Concentration Limits</b>	<b>Measure</b>	<b>Maximum</b>
<b>Mortgage Related &amp; Asset Backed Securities</b>		
* U.S. Full Faith & Credit Agencies	Sponsor	None
* Other U.S. Agencies	Sponsor	25%
* Non-Agency	Sponsor	10%
<b>U.S. &amp; Foreign Corporate Bonds</b>	Industry	25%
<b>Foreign Governmental &amp; Corporate Securities</b>		
* Canada	Country	10%
* Other Jurisdictions	Country	5%

<b>Table C - Fixed Income - Asset Class Diversification</b>	<b>Maximum</b>	
<b>Asset Class</b>	<b>Issuer<sup>i</sup></b>	<b>Aggregate</b>
<b>U.S. Government &amp; Agency Securities</b> excluding mortgage related		<b>No Limit</b>
* Full Faith & Credit Obligations	No Limit	No Limit
* Agency Obligations	5%	No Limit
<b>U.S. Municipal Bonds (taxable)</b>	3%	15%
<b>Short-Term Investments</b> other than U.S. gov't / agency	3%	<b>20%</b>
<b>Residential Mortgage Related Securities</b> pass-through & structured		<b>50%</b>
* U.S. Full Faith & Credit	50%	50%
* Other U.S. Agencies	15%	50%
* Non-U.S. Agency		15%
- A3 Rated Quality or Higher	3%	Table A
<b>Commercial Mortgage Related Securities</b> (A3 Rated Quality or higher)	3%	<b>15%</b>
<b>Asset-Backed Securities</b>		<b>20%</b>
- A3 Rated Quality or Higher	3%	Table A
<b>U.S. Corporate Bonds</b>		<b>50%</b>
- A3 Rated Quality or Higher	3%	Table A
- Baa1 – Baa3 Rated Quality	.50%	Table A
- Ba1 – Ba3 Rated Quality	.25%	Table A
<b>Foreign Governmental &amp; Corporate Bonds</b> U.S. dollar pay only		<b>15%</b>
- A3 Rated Quality or Higher	3%	Table A
- Baa1 – Baa3 Rated Quality	.50%	Table A
- Ba1 – Ba3 Rated Quality	.25%	Table A

<sup>i</sup> For mortgage related & asset backed securities “issuer” is defined as the issuing special purpose entity (also called the collateral pool).

**NHMMJUA**

Roger Sevigny, Insurance Commissioner, as  
Receiver of the New Hampshire Medical  
Malpractice Joint Underwriting Association by Peter  
Bengelsdorf, Special Deputy Commissioner

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**Date:** \_\_\_\_\_

**Deutsche Investment Management Americas Inc**

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**Date:** \_\_\_\_\_

**Deutsche Investment Management Americas Inc**

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**Date:** \_\_\_\_\_